CASE STUDY – ACTU and James Hardie Industries

WHO - Australian Council of Trade Unions (ACTU). The broader campaign also involved the ACTU, Unions NSW and various asbestos support groups.

WHERE - Australia and the AGM taking place in Amsterdam, Netherlands.

WHEN - 2004.

TARGET - James Hardie Industries - Manufacturer of fibre cement building products - as a part of a wider campaign attempting to secure adequate compensation for victims who had been exposed to James Hardie’s asbestos products.

HOW CHOSEN - The failure by James Hardie to provide sufficient compensation to those suffering from asbestos-related diseases (including those who got it when working for the company). The company not affording this was also questioned.

ISSUES - Compensation for victims of asbestos-related diseases.

AIM - To vote against the resolutions by the company (1) adopting the annual accounts (2) renewing the authority of the Board to allow the company to buy-back its own shares. Both were opposed by the union as the company not taking full responsibility for the asbestos victims.

ACTIVITIES - Prior to the AGM, the ACTU sent letters to 55 major fund managers within Australia. The letter tied the compensation to the victims with share value. The argument was that the damage in the company’s reputation and effects of consumer boycotts likely would cause a sustained damage to its share price. Hence, the company needed to assure sufficient compensation. The shareholder campaign was coupled with a wide-ranging media campaign. The media campaign aimed at negatively impacting the company’s reputation and get consumer to boycott the products.

OUTCOME - Before the AGM the Board withdrew the resolution to adopt the annual report. The Board motivated their decision by saying that they wanted to wait to see if the Special Commission of Inquiry into the Medical Research and Compensation Foundation (MRCF) would affect the company’s financial statement. It is likely that the focus from the union and later the public affected the company’s decision. Shortly after the AGM, representatives of James Hardie and the ACTU began negotiating a long-term funding agreement for future asbestos-related claims against the MRCF. An agreement was adopted providing for a long-term open-ended funding plan for a minimum of 40 years. This agreement formed the basis of a later legally binding ‘Principal Agreement’ signed by James Hardie in 2005. It is difficult to assess the role of the shareholder campaign in persuading James Hardie to enter into the agreement, but it is likely it and the pressure from other interests (public for example) played a role. The second resolution was passed though it got a significant number of votes (more than 10 million shares) against it.

LESSONS
Getting a resolution withdrawn is just as good as getting it voted against. Focusing on a very specific issue can also make it easier than focusing on broader shareholder issues. A media campaign and consumer boycotts were perhaps easier to achieve in this case (due to the nature of the issue with people getting sick).

Can the media and consumers be involved?

Source: http://cclsr.law.unimelb.edu.au/files/Union_shareholder_activism__26%5B1%5D21.09.05__06_12_05_1.pdf

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